

Thanks for providing a platform for these issues, I am looking forward to hearing an unbiased opinion regarding this situation. Please allow me to give you an overview of these events, I will provide details and answer any questions at your request.

I believe that Wells Fargo enticed me to join Wells Fargo Investments with promises that they never fulfilled and touted the benefits of receiving a performance bonus over the first 18 months and 15 million dollars in client accounts.

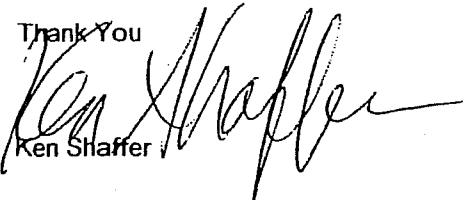
During and after periods of what I considered severe illness, during which I was denied short term disability benefits which I was led to believe I qualified for, I was assigned sales quotas which I was not subject to originally, and not informed that I would be subject to at my time of hiring. They were also unfair in that they excluded 50% of "licensed banker" referred accounts. This situation, favoritism, and what I perceived as the firms reckless attitude toward client protection resulted in emotional distress and my request to be allowed to resign. I was told that the promissory note balance would be due in full if I were to resign or be terminated.

During the tenure of my 3rd sales manager, after being told that I was going to be assigned an additional branch the following month, and that it was "business as usual" until then, I was abruptly terminated for two minor infractions, infractions that are routinely and ordinarily are not cause for termination. My U-5 shows "violation of company policy" and descriptions of these infractions which is misleading, and has resulted in my repeatedly being refused employment after very positive initial interviews. They have effectively ended my thirty year career, and left me with no means of similar constructive employment.

Through the course of these events I believe that Wells Fargo Investments, and their representatives, violated State labor and employment laws, and are guilty of creating a situation of detrimental reliance, promissory estoppel, and intentional and negligent infliction of emotional distress.

I will be referring to California's "Division of Labor Standards Enforcement Policies and Interpretations" Manual which I have provided excerpts from. The entire document can be viewed at [www.dir.ca.gov/DSLE/dsle.html](http://www.dir.ca.gov/DSLE/dsle.html).

Thank You

  
Ken Shaffer

## ISSUES

### Promissory Note

Originally described as a "bonus", It was never explained, and I never understood that amounts could be demanded to be repaid based on unwarranted termination, or that conditions would be placed on my employment, sales revenues quotas, which were not a condition at the time of my hiring or when the promissory note amount was awarded. Additionally, the demand for lump sum payment violates contract law in that it constitutes a penalty for an employee's termination, especially in light of my precarious financial condition. These conditions result in the Promissory note being "unconscionable" and "one sided". Civil Code s 1670.5 states that unconscionable contracts or provisions therein which are one sided may be found invalid. (32.2.4)\*

Page two of the promissory note agreement states " this note shall be interpreted, enforced, and governed by the laws of the state of California. California State Labor Law states that "balloon payment demands for loans made to employees made at the time of termination are not allowed even if the employee has given his or her consent to such payments" sec 11.2.5 "Deductions made for loans to employees" Barnhill v. Saunders (125 Cal.App.3d1). \*

California Labor law also defines Promissory notes as "Adhesion Contracts" which are described as "boilerplate" language drafted by one party without opportunity for negotiation". These types of contracts are "subject to greater scrutiny in interpretation and enforcement in order to modify or nullify harsh terms which defeat the reasonable expectations of the parties" sec 32.2 (Cal.App3d,345,356,133 Cal.Rptr. 775,783)\*

sec 32.2.2 states that and adhesion contract which does not fall within the reasonable expectations of the weaker or "adhering" party is not enforceable against him.\* The Promissory note qualifies under these provisions.

Please see payroll document (exhibit 1), the contested amount is described as "net pay" and "net pay distribution" as part of a what is described as a bi-weekly payroll report. This is confusing and misleading, especially because the promissory note also meets the definition of a "Bonus" as defined in section 2.5.5 - an amount promised in addition to the monthly commission due as compensation paid for a specific result, in my case the achievement of a minimum level of commission generation.

\* Excerpts from the California Division of Labor Standards Enforcement Policies and Interpretations Manual

### Wrongful Termination

I was terminated without notice based on two accidental and incidental violations of company policy, an inadvertant overcharge of approximately 300 dollars on two trades, and the failure to pass on an e-mail from a client who was requesting instructions as to how to transfer his account balance to his checking account.

The Wells fargo response to my counter complaint describes the first clients as "Wells Fargo's clients". This account belongs to my friends and clients for over 15 years, which I transfered to Wells fargo from my previous firm. Please see exhibit 7. This would be considered a "trade error" for anyone not being subject to discrimination. Financial Advisors are expected to make decisions regarding commision amounts regulary, many of the individual security trades which I processed were discounted, Financial Advisors are also allowed to decide when a situation qualifies for a higher commision. Finra rule IM-2440-1 regarding mark-up policy states that "the 5% policy is a guide, not a rule". I had never had an incident relating to overcharging, and the small amount involved certainly shows that this was not intentional. A one time accidental overcharging of a client is not specified as grounds for termination in any employment manual. Please see 9-29-2009 e-mail from Mary Mortensen (2) the total overcharge amount comes to 284 dollars. The account in question had a value of 132 thousand dollars. This is an accidental and trivial error.

The second, a supposed client complaint, made no mention of misstatements or erroneous disclosures on my part, or any wrong doing on my part. He wanted to know how to return his funds from the brokerage account to his bank account when his CD matured. There was no loss or potential of loss because this was a Wells Fargo principle guaranteed investment. I immediately called him when I received the second e-mail, I believe that I accidentally deleted his first e-mail due to system constaints when responding to another e-mail, and our conversation rectified his misunderstanding. See record of e-mail communication, I had informed this gentleman of how to access his account balance, had other communications with him. (exhibit 3) I did not consider this a client complaint, and I did not think of forwarding an item like this when the firm was being deluged with real complaints involving client losses. In a regional sales meeting, Financial Advisors were asked to step up production by Leo Hamill in order to help mitigate 7 million dollars in judgements against the firm. Wells Fargo's own guidelines specify that a Financial Advisor should strive to have less than 3 complaints annually (exhibit 11). Even if you consider this a bonified complaint, I have 1 in over 3 years

There were no other instances of trade errors or client complaints before this time, and Financial Advisors are expected to make judgements everyday regarding commision levels and the most appropriate way to handle client concerns. I was terminated without council, and never given the option of resignation which violates standard business practice in the brokerage business. These infractions were never specified to be reasons for termination in any employment manual, and my record of no client complaints or other violations was never considered. If we interviewed 20 brokerage managers, and described this situation, I am confident that all of them would not consider these reasons for termination. Financial Advisors who accumulated multiple infractions of policy and client complaints were not terminated. My termination is a clear case of age and health consideration discrimination leading to wrongful termination, and is covered by "wrongful discharge" provisions which are an exception to "at will" employment provisions

Ms. Krug also baited me into maximizing commisions generated in the last few days of the September production month via an earlier e-mail, which warned me that production requirements were enforceable on a monthly basis after I reported that I may come in just under my required production amount for September, but had business lined up for October. This is another example of intentional infliction of emotional distress. Adjustments for Licensed Banker referred business were also made at the end of the month, so Financial Advisors could not accurately predict their exact closing production amounts.

Additionally California Labor code states that there is an implied contract even for "At Will" employees regarding "just cause" for termination. This situation also qualifies as an "implied contract exception" because of the promissory note conditions of amorization over a five year period, and the requirement that I complete five years of employment in order not to be subject to penalty. The promissory note also qualifies as a "common law " contract and section 35.5 of the California

The Division of Labor Standards Enforcement also states that "the implied covenant of good faith and fair dealing imposes upon the employer the duty not to do anything which would deprive the employee the benefit of the contract. Finally, section 35.4 of the Enforcement policies and Interpretations manual states that "The promise of a bonus becomes a unilateral contract" (Lucien v. All States Trucking) and goes on to state that "a specific bonus plan normally becomes binding as a unilateral contract when the employee begins performance, in the sense that it cannot then be revoked by the employer" \*

#### Libel or slander on form u-5

The entries on my u-5, are deceiving and unclear because they create the impression that the client who was over charged also complained, and that this was other than an small accidental over charge, and that the amount of the accidental over charge was meaningful. These entries have resulted in my having been declined as a candidate at eight different firms, all of which were very positive regarding my candidacy before the final review of my u-5 by other approving parties. These actions violate California Labor Code section 150 regarding blacklisting.

#### Withholding of disability benefits

After suffering for some time with coughing, and a choking sensation which my physician describes as laryngospasm, I began having episodes of sleep apnea, awakening at night unable to breath. At this point I decided to take my Doctor's earlier recommendation and take time off for "voice rest". I related this situation to an employee benefits specialist at Wells Fargo and was told that this was a qualifying short term disability as a result of my doctor's recommendation, and e-mailed me a review of my disability benefits (exhibit 5). Later I was informed by Metropolitan Insurance that they would not be paying my disability benefits because they could not get needed information from Kaiser, and that the records they did have did not support my leave. Please see exhibit 5, "Certification of Health Care Provider for Family Leave. My Physician, Dr. Arellanes, has indicated that this was a "serious health condition" and recommended "Absence Plus Treatment". Metropolitan effectively overruled my attending physician without providing their own examination or interview. I am still bothered by respiratory issues. If this condition is deemed to have effectively ended my brokerage career, my long term disability coverage offered 120k per year income untill the age of 65. The maximum disability coverage which I have been denied has a value of 1.4 million dollars.

#### Withholding of commissions

Withholding of commissions was executed a s part of an unfair "Licensed Banker" program which credited only 50% of revenue from an account introduced by a licensed banker for the first year. The withheld compensation was not counted toward goal achievement or compensation, and not evenly applied in all branches. The branch which I was able to generate the larger amount of revenue from in 2008, "Micron", had no licensed bankers at that time, and was assigned two licensed bankers at the start of 2009. My goals which subjected me to termination if not met, were raised during this period. The rationale for the Licensed Banker program was that the Licensed Banker would bring the Financial Advisor more qualified prospects, and that the expense of the Licensed Banker's salary was covered by the Bank. Section 34.3 of the division of labor standards enforcement manual states that "if the element upon which the deduction from gross sales is based upon a cost which is attributable to the employer's cost of doing business, the element may not be used". \* I understand that this policy has been changed now, an admission of violation. I am not sure of the total value of the withheld commissions.

#### Promissory Estoppel

In addition to verbal comments regarding my assignment to a new branch after three years of requests, please see attached e-mail dated Sept. 23, 2009, (exhibit 6) which tells me that I will be covering the new branch starting Nov. 1st, and it is "business as usual until the end of October". Labor code S-90, sec 31.6 states that "a promise which the promisor should reasonably expect to induce action or forbearance on the part of the promisee and which does induce action or forbearance is binding if injustice can only be avoided by enforcement of the promise". As a footnote, Christopher Obenchain, the other recipient of the e-mail has been terminated. Jim U'ren, mentioned in the e-mail, also terminated. Jan Krug, terminating manager, is now at another bank brokerage program.

\* California Division of Labor Standards Enforcement Policies and Interpretations

I find it perplexing that I was terminated for these two policy infractions when there were virtually no incidents of client complaints, over charging, or other ethical violations or policy infractions during my time with the firm. There was a constant pressure regarding commission amounts generated and warnings and threats when my production amounts did not meet minimum expectations of 25,000 per month. Production levels were always and exclusively the concern. I found this to be an extreme conflict of interest and is another example of Wells Fargo breaching its fiduciary responsibility.

If the records are accurate, they will reveal that I routinely asked to be assigned to a branch or branches with a larger deposit base due to the extreme pressure, and that the branch in Folsom where I was assigned 3 days a week had assets and performance in the bottom 25% of Northern California Branches. A year into my employment, I was assigned another branch called "Micron" which was on a frontage road off the freeway in an economically disadvantaged area of Sacramento. The branch had an unarmed guard standing duty outside because of attacks on small business clients as they were making deposits. This branch provided the bulk of my new Wells Fargo business for 2008. In 2009 the branch was assigned two licensed bankers, which meant that most new business from the branch received a 50% credit, while my goals remained the same.

While maintaining a positive relationship with the sales manager who hired me, John Scambray, I eventually became dissatisfied as the earlier promises were not fulfilled and I was forced to attempt to meet revenue expectations with only the client base which I had transferred to Wells Fargo, and had been working with for years. I followed the firm's recommendations, especially involving a myriad of monthly closed end "income fund" offerings, which were mostly unsuccessful in regard to total return or the achievement of stated objectives.

In one meeting with John when I expressed my concern about generating a competitive level of revenue from a small asset base and again questioned the availability of the promised accounts, John suggested that with the advent of the "Private Bank" brokers who wished to participate would handle only million dollar accounts, and there would be accounts available for distribution at that point. He then suggested that he could recommend me for the title of Vice-President, the criteria for I did not meet. I believe this action was an admission of violation of labor code S-970\* regarding misrepresentation.

Mr. Scambray was reassigned to the role of Insurance coordinator before leaving Wells Fargo for another firm. His successor, Barbara Brandell, subjected me to higher revenue production minimums and explained that I could be put on verbal, and then written warning resulting in possible termination for missing revenue goals, made no attempt to fulfill the earlier account promises, and told me that I was one of the "complainers" among the group.

My March 9th, 2009 e-mail regarding violations of securities regulations would have afforded me protection under labor code S-1102.5\* had I submitted those concerns to a regulatory agency. Jan Krug was my third sales manager, and continued pressuring revenue results even as financial markets plummeted showing little or no regard for client safety. What bothered me most, and led to the disintegration of our relationship was a demanding and demeaning attitude on the part of Ms. Brandell and Ms. Krug which I had never been exposed to in my then 27 year brokerage career. This same demeaning attitude was exemplified at the branches towards salaried employees by managers and supervisors resulting in exceptionally low morale, which I repeatedly stated in my quarterly reviews.



### Intentional and Negligent Infliction of Emotional Distress

I believe that Kane and Fischer, Wells Fargo, Jan Krug, and Mary Mortensen are guilty of both intentional and negligent infliction of emotional distress as defined by California State Labor Code. Both Ms. Krug and Ms. Mortensen are aware that these types of infractions occur occasionally during the course of business, and have routinely counseled Financial Advisors for similar errors without terminating them. My termination was a result of Ms. Krug not feeling that I displayed the proper degree of respect for her position, and retaliation for remarks that I made regarding the firms lack of concern for client welfare, poor branch morale and the firms own misrepresentation of investment products.

Additionally Kane and Fischer are certainly aware that California labor code specifically prohibits demanding balloon payments upon termination, and the fees itemized in his recent "Summary of Amounts Due" include his fees to defend Wells Fargo against my counter complaint. This willful misconduct is an insult not only to me, but also the panalists, and should be remedied with sanctions and damage awards.

## Breach of Fiduciary Responsibility

I believe that Wells Fargo breached its required Fiduciary Responsibility by demanding sales revenue be considered over client suitability, which is also a violation of California's "public policy doctrine", by imposing sales quotas on Financial Advisors without regard to the Financial Advisors's account base or the asset base of the branches they were assigned to, and by relentlessly "pushing" a risky security called "Reverse Convertibles"

They also failed to provide reasonable advice to clients or Financial Advisors as the economy and the markets were on the precipice of major decline, rather, the "Mantra" was "just keep on selling". Wells Fargo's chief economist, James Paulson, is on record in 2007 as stating that the problems in the real estate market would not lead to an economy wide recession, another strategist by the name of Junkins put out a report in early September 2008 that stated that the "bottom was in" in financial stocks, this just before the major decline of October and November of that year. The decline and destruction of client accounts during this period made me very concerned for client welfare, and I felt guilty that I was not able to offer better advice. In my efforts to safeguard client investments I emphasized short term income funds which generated lower revenue amounts and led to performance reviews and threats of termination.

Reverse Convertible securities are derivatives, in effect naked "put" options, based on a particular equity security which pay high interest for relatively short periods of time, 3-12 months. They also generate very high commissions, possibly the highest of any asset class investment over time. For that reason they were a very popular investment within the program, and were highlighted in weekly conference calls. These calls including the input of a Mr. Jason Bell, Certified Financial Analyst, who would look at the chart patterns of the stocks underlying the "reverse convertibles" looking for the most stable pattern. With the market collapse of 2008, and even before, the underlying equities collapsed and the holders were assigned shares of stock worth only a fraction of their original investment. Wells Fargo misrepresented the risk factors of these securities to both Financial Advisors and Clients, and did not take reasonable steps to insure that these securities did not comprise a large portion of client's portfolios.

In a discussion with another compliance manager, Ms. Cindy Matheson, I related a conversation which I had with an inherited client (from another departed Financial Advisor). She had both her personal account and a beneficiary IRA positioned in Reverse Convertibles with 100% of her funds, and had experienced substantial losses. I asked Ms. Mathis how this could be allowed, and she replied that Reverse Convertible securities were considered "fixed Income securities" and therefore could make up 100% of a portfolio. Categorizing a risky derivative as a fixed income security is another of Wells Fargo's breach of Fiduciary Responsibility. I'm sure there are many injured parties.

I also believe that this action to collect on the outstanding note is another breach of Fiduciary Responsibility. Certainly the law firm is aware that demanding repayment of these amounts is not allowed under California employment law statute, they simply feel that they are above the law, or can get around it. This is an insult to the arbitration process as well.



### Damages

Mr. Chung has questioned my productivity and compensation at previous firms. On our recent conference call he suggested that I was being better compensated at Wells Fargo than I was at my previous employer. Please see attached Social Security wage statement (exhibit 8) from my employment at brokerage firms since 1979 without interruption. My five year income average up to the time I joined Wells Fargo was over 93K, my earnings while I was at Wells Fargo averaged over 78K. My average earnings while I was at the Bank of America brokerage division was in excess of 140K. My ten year average is 91K. Effectively barred from the brokerage business after 30 years of service by Wells Fargo, without a serious client complaint or ethical issue, my lost income cost will be over 910,000 dollars over the next 10 years, based on my previous 10 year average, which has been effected by market turbulence and my own health issues. If you consider the additional costs of health care and other benefits, my actual damages are well over 1 million dollars.

Over the first several months of my unemployment, I realized that I would likely have to find employment in another industry, and have applied for numerous positions utilizing the skills I have. I have not been able to procure even one interview for consideration outside of my field, I have even been rejected by e-mail twice by U.S. Bank for a branch manager position- after 30 years in the Financial Services business, and over a decade of bank experience, I cannot even get a face to face meeting. I have opened an account on "Monster", records available on request. I did not hear back from any of my "Monster" applications, even total, and I have applied for many other positions not on the "Monster" record. I think that because of the high number of job seekers, and my age, 56, I am excluded from consideration.

Also effecting my job search are lingering respiratory problems that sometimes causes me to cough and clear my throat, if this condition is considered a disability I am eligible for coverage through the program outlined in Exhibit 8, which would have a value of 1.2 million dollars.

Many of the infractions of California labor Law which Wells fargo has committed call for treble damage consideration as an award. This application would suggest that a damage award of approximately 3 million dollars would be appropriate. There are also issues which I have raised which have caused me pain and suffering as well as my family, for which there can be no financial recovery.

## **DIVISION OF LABOR STANDARDS ENFORCEMENT ENFORCEMENT POLICIES AND INTERPRETATIONS MANUAL**

- 32.2.1 In *Graham v. Sissors-Tail, Inc.* (1981) 28 Cal.3d 807, 820, 171 Cal.Rptr.604, 612, the Supreme Court stated that there were two judicially imposed limitations on the enforcement of adhesion contracts or provisions therein.
- 32.2.2 First, an adhesion contract which does not fall within the reasonable expectations of the weaker or "adhering" party is not enforceable against him.
- 32.2.2.1 *Example:* Insurance company refused to defend insured in civil case for willful assault due to exclusion in policy for defense of actions for damages caused intentionally or at the direction of the insured. Judgment was obtained by injured party against the insured. The insurance company is liable for cost of defense and amount of judgment rendered against insured on grounds of adhesion contract since policy deemed to require defense in suit which potentially seeks damages covered by the policy. No one

## **DIVISION OF LABOR STANDARDS ENFORCEMENT**

### **ENFORCEMENT POLICIES AND INTERPRETATIONS MANUAL**

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- 32.2.2.1 *Example:* Insurance company refused to defend insured in civil case for willful assault due to exclusion in policy for defense of actions for damages caused intentionally or at the direction of the insured. Judgment was obtained by injured party against the insured. The insurance company is liable for cost of defense and amount of judgment rendered against insured on grounds of adhesion contract since policy deemed to require defense in suit which potentially seeks damages covered by the policy. No one could tell until the suit was over whether the liability is covered or not (e.g., the injured party may only prove negligence which is covered by the policy. *Gray v. Zurich Insurance Co.* (1966) 65 Cal.2d 263, 54 Cal.Rptr. 104.)
- 32.2.3 Second, a principle of equity applicable to all contracts generally - is that a contract or provision, even if consistent with the reasonable expectations of the parties will be denied enforcement, if it is unduly oppressive or "unconscionable." *Graham v. Scissor-Tail, Inc.* (1981) 28 Cal.3d 807, 819, 171 Cal.Rptr.604.
- 32.2.3.1 *Example:* In *Graham*, a concert promoter was required to sign (artist's) union form contract which designated union as sole arbitrator of all disputes. The court held the arbitration provision unconscionable as a matter of law since the provision did not achieve minimum levels of integrity required of a contractually structured substitute for judicial proceedings. The court found that the designation of one whose interest is closely allied with one of the parties as the arbitrator (not neutral) was to such extent illusory. In *Graham v. Scissor-Tail, Inc.*, the Supreme Court provided that among the factors which would have a profound impact on the reasonable expectations of the "adhering party" is the extent to which the contract in question may be said to be one affecting the public interest. Since the payment of wages is a matter affecting the public interest, a provision on an adhesion contract which adversely affects, impedes, or contravenes the prompt payment of wages would be suspect. (See also, Labor Code § 219 which provides that the provisions of § 200 *et seq.* cannot, in any way, be contravened or set aside by private agreement whether written, oral, or implied)
- 32.2.4 **Legislation Regarding Unconscionable Provisions In Contracts.** Civil Code § 1670.5 applicable to actions regarding unconscionable contracts or provisions therein which are so one-sided. If a court determines, as a matter of law, that a contract or provision therein is found to have been unconscionable at the time it was made, the court may refuse to enforce the contract, or it may enforce the remainder of the contract without the unconscionable clause, or it may limit the application of the unconscionable provision as to avoid any unconscionable result. (Civil Code § 1670.5)

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\*The *Gray* case has been distinguished by many cases but is basically still good law.

agreement to that extent and only to the extent that the advances exceed the minimum wage and overtime requirements. (*Agnew, supra*, and IWC Orders; see also O.L. 1987.03.03, 1991.05.07)

#### 34.2.1

**Reconciliation Of Draws Against Commissions.** Reconciliation of draws against commissions are to be construed according to the contract of employment but must be completed within a reasonable time depending upon the transactions involved.

#### 34.3

**Computation Of Commissions.** Commission computation is based upon the contract between the employer and the employee. The commission may be based on either gross sales figures or net sales figures. As discussed below, certain criteria cannot be considered when reaching the "net" sales figures. If the element upon which the deduction from the gross sales is based is predicated upon a cost which is attributable to the employer's cost of doing business, the element may not be used.

#### 34.3.1

Computation of commissions frequently relies on such criteria as the date the goods are delivered or the payment is received. Sometimes, the commission of the selling salesperson is subject to reconciliation and chargebacks if the goods are returned. If these conditions are clear and unambiguous, they may be utilized in computing the

**DIVISION OF LABOR STANDARDS ENFORCEMENT  
ENFORCEMENT POLICIES AND INTERPRETATIONS MANUAL**

that the implied covenant of good faith and fair dealing imposes upon the employer the duty not to do anything which would deprive the employee of the benefit of the contract.

- 35.4      **The Promise Of A Bonus Becomes A Unilateral Contract.** The California courts (*Lucien v. All States Trucking, supra*) have adopted the view explained by the Oregon courts in *Walker v. American Optical Corporation* (Or.1973) 509 P.2d 439, 441: that a specific bonus plan normally becomes binding as a unilateral contract when the employee begins performance, in the sense that the plan then cannot be revoked by the employer. (See discussion of unilateral contract at Section 31.2.10.1 of this Manual)
- 35.4.1      In *Chinn v. China Nat. Aviation Corp.* (1955) 138 Cal.App.2d 98, 291 P.2d 91 the court held that if the bonus is part of the inducement for the initial or continuing employment (see also *Sabatini v. Hensley* (1958) 161 Cal.App.2d 172, 326 P.2d 622; *Hunter v. Ryan* (1930) 109 Cal.App. 736, 293 P. 825) and where the employer, in announcing the plan, did not expressly qualify his promise to pay on any requirement of continued employment, the bonus is earned by the employee remaining in the employment of the employer.



2.5.4.1 Again, as with a piece rate plan, a commission plan may include a group of employees who share in the commissions earned. (See detailed discussion of commissions at Section 34 of this Manual)

2.5.5 **Bonus Defined.** A bonus is money promised to an employee *in addition to* the monthly salary, hourly wage, commission or piece rate usually due as compensation. The word has been defined as: "An addition to salary or wages normally paid for extraordinary work. An inducement to employees to procure efficient and faithful service." *Duffy Bros. v. Bing & Bing*, 217 App.Div. 10, 215 N.Y.S. 755, 758 (1939). Bonuses may be in the form of a gratuity where there is no promise for their payment; or they may be a contractually required payment where a promise is made that a bonus will be paid in return for a specific result (*i.e.*, exceeding a minimum sales or piece quota). (See detailed discussion of Bonuses at Section 35 of this Manual)

2.5.5.1 Piece rate and commission plans may be in addition to an hourly rate or a salary rate of pay. Such plans may also be in the alternative to a salary or hourly rate. As an example, compensation plans may include salary plus commission or piece rate; or a base or

17.9.1 **State Whistleblower Statute.** Labor Code § 1102.5 protects employees who disclose information to a governmental or law enforcement agency where the employee has reasonable cause to believe that the information discloses a violation of state or federal statutes, a violation of state or federal statutes, or noncompliance with state or federal regulations.

17.9 **State Whistleblower Statute.** Labor Code § 1102.5 protects employees who disclose information to a governmental or law enforcement agency where the employee has reasonable cause to believe that the information discloses a violation of state or federal statutes, a violation of state or federal statutes, or noncompliance with state or federal regulations.

17.9.1 **Note:** This statute encompasses the filing of a complaint with the Labor Commissioner's office (also protected under Labor Code §98.6), the filing of a complaint with OSHA (also protected under Labor Code §§ 6310, 6311), the filing of a complaint with Department of Fair Employment and Housing under Government Code Section 12940, *et seq.*, and other complaints or reports to governmental agencies about violations of law under their jurisdiction.

- 35.5 **Termination Of The Employment By The Employer.** Common law contract theories will not allow one party to the contract to prevent the other party from completing the contract. If the employee is discharged before completion of all of the terms of the bonus agreement, and there is not valid cause, based on conduct of the employee, for the discharge, the employee may be entitled to recover at least a pro-rata share of the promised bonus. (O.L. 1987.06.03)
- 35.6 **Criteria Used To Establish Bonus.** As discussed in Sections 17.3.3, 17.3.4 of this Manual, the courts have held that shortages or other ingredients not within the control of the employee and which are usually considered a cost of doing business may not be deducted when calculating a bonus. (*Quillian v. Lion Oil* (1979) 96 CalApp.3d 156; 157 Cal.Rptr. 740)
- 35.7 **Calculation Of "Regular Rate Of Pay" Where Bonus Is Involved.** When calculating the regular rate of pay for purposes of overtime calculation under the IWC Orders, non-discretionary bonuses must be calculated into the formula. This is discussed in detail in the Section of this Manual dealing with calculation of regular rate of pay. (See

..... interest, a provision on an adhesion contract which adversely affects, impedes, or contravenes the prompt payment of wages would be suspect (See also, Labor Code § 219 which provides that the provisions of § 200 *et seq.* cannot, in any way, be contravened or set aside by private agreement whether written, oral, or implied)

#### 32.2.4

**Legislation Regarding Unconscionable Provisions In Contracts.** Civil Code § 1670.5 applicable to actions regarding unconscionable contracts or provisions therein which are so one-sided. If a court determines, as a matter of law, that a contract or provision therein is found to have been unconscionable at the time it was made, the court may refuse to enforce the contract, or it may enforce the remainder of the contract without the unconscionable clause, or it may limit the application of the unconscionable provision as to avoid any unconscionable result. (Civil Code § 1670.5)

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\*The *Gray* case has been distinguished by many cases but is basically still good law.

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which is not either authorized by the employee in writing or permitted by law. Again, any employer who resorts to self-help does so at its own risk since even under the proviso contained in the IWC Orders, an objective test is applied to determine whether the loss was due to dishonesty or a willful or grossly negligent act. (O.L. 1993.02.22-2, and 1994.01.27) In the event it is determined that the employee was not guilty of a dishonest or willful act or gross negligence, the employee would be entitled to recover not only the amount of wages withheld, but any waiting time penalties due.

#### 11.2.5

**Deductions For Loans Made To Employees.** In *Barnhill v. Saunders* (1981) 125 Cal.App.3d 1, the court concluded that deductions may be made by the employer, with the written consent of the employee, for payments on loans made by the employer to the employee; but "balloon payments" made at the time of termination are not allowed even if the employee has given his or her consent to such payments.

#### 11.2.6

The conclusion reached by the *Barnhill* court allowing deductions from the wages of employees to repay loans made by the employer to the employee is open to question in view of the provisions of Labor Code § 300. That statute provides that no assignment of future wages may be made unless wages have already been earned except that

accommodation does not impose an undue hardship on the employer.”

26.2.1 The employer must make reasonable efforts to safeguard the privacy of the employee as to the fact that he or she has a problem with illiteracy (Labor Code § 1042) and an employee may not be discharged based solely on the revelation of a problem with literacy so long as the employee satisfactorily performs his or her work.

26.2.2 Note that an employer is not obligated to pay for the time an employee is off to enroll or participate in an adult literacy education program. (Labor Code § 1043)

26.3 **Labor Code § 1050, Preventing Re-employment By Means Of Misrepresentation:** It is illegal for an employer (or any person, agent or officer thereof) to prevent the re-employment of an employee who has left the employer's service either by discharge or voluntary quit. An employee who is damaged by an employer's untruthful statements may recover treble damages. (Labor Code § 1054)

JUNE, 2002

26 - 1



- 32.1.5 Where ambiguous, extrinsic (external of the contract) evidence may be used to show the meaning of the term "compensation for services." (*Ranier Credit v. Western Reliance* (1985) 171 Cal.App.3d 255; 217 Cal.Rptr. 291)
- 32.1.6 In cases of ambiguity not resolved under the rules of interpretation, the language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist. (Civil Code § 1654) The rule applies with particular force in the case of a contract of adhesion. (*Graham v. Scissor-Tail, Inc.* (1981) 28 Cal3d 807, 819)
- 32.2 **Contract Interpretation: Adhesion Contracts, Unconscionability.** Contracts of adhesion are contracts which are drafted by one party usually reduced to a standardized form which uses "boilerplate" language and is presented to the other party *without any real opportunity for negotiation*. Such contracts are not automatically void, voidable, or unconscionable, but are subject to greater scrutiny in interpretation and enforcement in order to modify or nullify harsh terms which defeat the reasonable expectations of the parties. (See, *Wheeler v. St. Joseph Hospital* (1976) 63 Cal.App.3d 345, 356, 133 Cal.Rptr. 775, 783)

- 32.2.3 Second, a principle of equity applicable to all contracts generally - is that a contract or provision, even if consistent with the reasonable expectations of the parties will be denied enforcement, if it is unduly oppressive or "unconscionable." *Graham v. Scissor-Tail, Inc.* (1981) 28 Cal.3d 807, 819, 171 Cal.Rptr.604.
- 32.2.3.1 *Example:* In *Graham*, a concert promoter was required to sign (artist's) union form contract which designated union as sole arbitrator of all disputes. The court held the arbitration provision unconscionable as a matter of law since the provision did not achieve minimum levels of integrity required of a contractually structured substitute for judicial proceedings. The court found that the designation of one whose interest is closely allied with one of the parties as the arbitrator (not neutral) was to such extent illusory. In *Graham v. Scissor-Tail, Inc.*, the Supreme Court provided that among the factors which would have a profound impact on the reasonable expectations of the "adhering party" is the extent to which the contract in question may be said to be one affecting the public interest. Since the payment of wages is a matter affecting the public interest, a provision on an adhesion contract which adversely affects, impedes, or contravenes the prompt payment of wages would be suspect (See also. Labor Code

## Exhibits

(1)

**B03 WELLS FARGO INVESTMENTS, LLC**  
 999 THIRD AVENUE  
 SEATTLE WA 98104

Pay Group:	BW1-BIWEEKLY PAYROLL	Check #:	4968405
Pay Begin Date:	01/01/2008		
Pay End Date:	01/31/2008	Check Date:	01/09/2008

KENNETH CRAIG SHAFFER 5315 GARLEDA DR EL DORADO HILLS CA 95762	Employee ID:	00000716429	TAX DATA:	Federal	CA State
	AU# / CC#:		Marital Status:	Married	Married
	Location:	0000003557	Allowances:	6	6
	Job Title:	WMG FINANCIAL CONSULTANT 2	Addl. Amt.:		
	Pay Rate:	\$36,053.29 Annual			

HOURS AND EARNINGS						TAXES		
Description	Rate	Current		YTD		Description	Current	YTD
		Hours	Earnings	Hours	Earnings			
Forgivable Promissory Note			111,347.00		111,347.00	Fed Withholding	0.00	210.43
Regular Pay			0.00		1,386.67	Fed MED/EE	0.00	40.68
PCS Sales Incentive Plan			0.00		1,539.07	Fed OASDI/EE	0.00	173.93
						CA Withholding	0.00	55.69
						CA OASDI/EE	0.00	22.44
Total:			111,347.00		114,272.74	Total:	0.00	503.17
BEFORE TAX DEDUCTIONS						AFTER TAX DEDUCTIONS		
Description		Current		YTD		Description	Current	YTD
Kaiser Northern CA		0.00	94.62			Community Support/United Way	0.00	10.00
WF Dental Plan - Standard		0.00	17.74			Spouse/Partner GULP	0.00	1.60
Vision Service Plan		0.00	8.00			GULP Optional Life	0.00	22.49
Wells Fargo 401K Plan		0.00	87.77			AD/D	0.00	1.93
						Long-Term Disability	0.00	12.44
Total:		0.00	208.13			Total:	0.00	48.46
TOTAL GROSS		FED TAXABLE GROSS		TOTAL TAXES		TOTAL DEDUCTIONS		NET PAY
Current:	111,347.00		0.00		0.00		0.00	111,347.00
YTD:	114,272.74		2,717.61		503.17		256.59	113,512.98
NET PAY DISTRIBUTION								
Check #000000004968405								111,347.00
Total:								111,347.00

(2)

**From:** Mortensen, Mary  
**Sent:** Tuesday, September 29, 2009 3:08 PM  
**To:** Shaffer, Kenneth C.  
**Cc:** Mortensen, Mary  
**Subject:** Trade Review - Excess Commissions  
**Importance:** High

Ken:

Pls advise why you entered a flat \$ commission amount, in excess of what normal comp would be??

Firm: Main Firm	Region: California Region
Branch: El Roseville	Broker: EJ4D SHAFFER KENNETH

Client: WINEGER FAMILY LIVING TRUST U/A DTD 03/21/1994 JOHN G WINEGER & DOROTHY I	No Discreti
Account: [REDACTED]	View Profile: Medium

9/29/2009	Commission Excess Equities	9/28/2009 TDent: 09/28/2009 14:02:11	EXG	EATON VANCE TAX MANAGED GLBL DIVERSIFIED EQUITY INCOME FUND	\$7,373.76	\$132,447.74	

#### Extended Data

Trans Date		Type	Product Type	Quantity	Share Price	Commission	Compared Value	Net
9/28/2009	Solicited	Purchase	Closed-End Fund	600.00	\$12.290	\$495.00	\$368.69	\$7,

Firm: Main Firm	Region: California Region
Branch: El Roseville	Broker: EJ4D SHAFFER KENNETH

Client: WINEGER FAMILY LIVING TRUST U/A DTD 03/21/1994 JOHN G WINEGER & DOROTHY I	No Discreti
Account: 84295371	View Profile: Medium

9/29/2009	Commission Excess Equities	9/28/2009 TDent: 09/28/2009 14:09:17	JGT	NUVEEN MULTI-CURRENCY SHORT-TERM GOVERNMENT INCOME FUND	\$6,731.56	\$132,447.74	
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W000048

(2)

Extended Data								
Trans Date		Type	Product Type	Quantity	Share Price	Commission	Compared Value	Net
9/28/2009	Solicited	Purchase	Closed End Fund	400.00	\$16.829	\$495.00	\$336.58	\$7.

Mary E. Mortensen  
Vice President  
Branch Administration Manager  
Wells Fargo Investments

Office: 916-788-4508  
Fax: 916-788-4782

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- Are Not insured by the FDIC or any other federal government agency
- Are Not deposits of or guaranteed by the Bank or any Bank affiliate
- May Lose Value

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W000049



(2)

[REDACTED]  
WINEGER FAMILY LIVING TRUST

(530) 622-6063

To Whom It May Concern:

John and I have worked with Ken for over fifteen years now, and have always been happy with his guidance and concern. A long time friend as well as financial advisor, we have transferred our accounts in order to continue working with him. We have the utmost confidence in his ability and concern for our welfare.

Regards,

*Dorothy Wineger*  
Dorothy Wineger

*John Wineger*  
John Wineger

Fax from : 2862923145

10-01-09 11:04

Pg: 1

Page 1 of 4

FROM: kenneth.c.shaffer@wellsfargo.com  
 TO:  
 SUBJECT: RE: New Accounts

(3)  
 BRYAN A → DITH G.

Configuration at time of  
 processing: ☒ ☒ 11  
 Message Sent: Sep 14 2009  
 11:20:39 AM  
 Processed on: Sep 14 2009  
 11:57:32 AM  
 Expiration: Sep 13 2014  
 11:20:39 AM

Hi - I left a message for you at the contact number I have for you. Your market linked CDs mature on Oct 7<sup>th</sup>, and will return 100% of your principle. You can sell them now if you need the money right away, for approx. 986/1000, the 4 dollar per 1000 is equal to .4% in less than a month, or about 4.8% annualized interest, so it's better to let them mature on Oct 7<sup>th</sup>. I have already made a note to move the proceeds back to your bank account on the 8<sup>th</sup>.

Ken Shaffer  
 Financial Consultant  
 Wells Fargo Investments

M-W-F- 916 984-1179 Customer Service- 866-281-7436

T-Th- 916 364-3571

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From:  
 Sent: Friday, September 11, 2009 8:29 PM  
 To: Shaffer, Kenneth C.  
 Subject: Fw: New Accounts  
 Importance: High

Ken, Can you give me a contact to find out how to get my money back into my account since you have not responded. If I don't hear back this time, My attorney will contact you next! I'm pissed you got me into this and don't respond to my emails!!!

----- Original Message -----

From:  
 To: Kenneth.C.Shaffer@wellsfargo.com  
 Sent: Monday, September 07, 2009 8:41 PM

written complaint

about:blank

10/1/2009

W000050

Fax From : 2062923145

10-01-09 11:04

Pg: 2

Page 2 of 4

Subject: Re: New Accounts

(3)

Hi Ken, It has been 18 months and the account produced nothing. When will my money be put back into my account?

Thanks

----- Original Message -----

From: [Kenneth.C.Shaffer@wellsfargo.com](mailto:Kenneth.C.Shaffer@wellsfargo.com)

To

Sent: Tuesday, March 18, 2008 4:54 PM

Subject: RE: New Accounts

Not sure about that, do you have to add it to your Quicken accounts?

**Ken Shaffer**  
Financial Consultant  
Wells Fargo Investments

M-W-F- 016 984-1179  
T-Th -916 364-3671

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From:  
Sent: Tuesday, March 18, 2008 4:30 PM  
To: Shaffer, Kenneth C.  
Subject: Re: New Accounts

Hi Ken,

about:blank

W000051

10/1/2009

Fax From : 2862923145

10-01-09 11:04

Pg: 3  
Page 3 of 4

(3)

Thanks, I have it setup online at Wells Fargo but can't seem to get it to show in Quicken.  
Any idea's?

Thanks

----- Original Message -----

From: Kenneth.C.Shaffer@wellsfargo.com

To:

Sent: Tuesday, March 18, 2008 9:50 AM

Subject: RE: New Accounts

Hi, When you sign on, go to the "account services" tab, choose "add accounts" - you should see your new brokerage account listed, select the account and go to the "account summary" screen - call or e-mail with any questions.

*Ken Shaffer*  
Financial Consultant  
Wells Fargo Investments

M-W-F- 916 984-1179

T-Th -916 364-3571

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From:  
Sent: Monday, March 17, 2008 9:48 PM  
To: Shaffer, Kenneth C.  
Subject: New Accounts

Hi Ken,

about:blank

W000052

10/1/2009

Fax from : 2862923145

(3)

10-01-09 11:04

Pg: 4

Page 4 of 4

I met with you and Yuri on Tuesday the 4th and decided to open a couple accounts from money in my savings. Are these accounts going to show up on my monthly statement? I also use Quicken and do see the 8,000.00 transfer out of savings but do not see it anywhere. Is this something I will be able to see in the future?

Thanks

W000053

10/1/2009

about:blank

### Sales Performance Warnings

I was subject to verbal production warnings prior to my disability leave in October and November of 2008. A rational person would assume that this is because I was not selling commission generating products. Please see Market Linked Certificate of Deposit (MLCD) and Market Linked Note (MLN) production. (exhibit 4) I am one of the top performing sales people at 3 million plus in sales. The problem is that although this product is good for the client because it gives them a principle guarantee, and the opportunity to participate in equity, commodity, Real Estate, and Gold indices without a "load" or upfront sales charge, MLCDs only generate an approximate 1% sales charge. These vehicles were perfect for the client in the period of extreme volatility for the markets, not good enough for Wells Fargo because they generated lower commissions initially, a violation of standard business practice and securities regulations.

The same situation exists in regard to my sales of "Wells Fargo Advantage" Mutual Funds. I have no performance records, I'm sure that they would show that my sales performance was far above average, but many of the sales I made were "C" class shares, resulting in a 1% commission credit. These shares were the only class of shares that I considered appropriate and ethical for short term income funds generating less annual interest than the "A" share sales charge. On one occasion, during another discussion regarding sales performance, I had generated over 1 million dollars in sales in the Wells Fargo Mutual fund group for the month, in short term Govt. and Municiple funds. One of the sales that I made was for 500,000, for my own client, which I brought to Wells Fargo, I received no sales commission on the sale because of the fund's policy of offering 500K purchases with no sales charge. When I explained this situation to Ms. Krug, she suggested that I switch the order to another fund family which did not have this policy, I did not because I considered it unethical.

I was placed on written warning on March 9th, 2009, (exhibit 4) for missing my sales goal for February by 500 dollars even though I had exceeded my goal in January by more than that amount. Monthly sales quotas for Financial Advisors are an extreme conflict of interest, is not industry policy, and is another example of Wells Fargo's breach of fiduciary responsibility.



E-MAIL I SENT TO MY  
MANAGER'S MANAGER (4)

Shaffer, Kenneth C.

From: Shaffer, Kenneth C.  
Sent: Monday, March 09, 2009 4:31 PM  
To: Webster, Mark D. (PCS); Hamill, Leo P.  
Subject: Fair and reasonable?

Hi Mark- I have been issued a "formal written warning" for unsatisfactory production from Barbara. My monthly goal is 20,666 (80%). For February, I had total production of 20,100, missing the mark by 500 dollars. My year to date is 41,439, an average of 20,719.50 per month, and higher than the original requirement. I am now being threatened with termination, at a time when, prior to this meeting, I felt like I was gaining momentum- For March, I have booked my 1<sup>st</sup> Transamerica Inheritance Builder Sale, received my first "Inforce Policy review", and booked business in fixed annuities. I feel my branch relations are excellent, and I have no customer complaints. I was 14<sup>th</sup> out of 29 reps for the month of February, and am 8<sup>th</sup> in % to goal.

Complicating the situation is the fact that I have an outstanding promissory note- Barbara has informed me that the unamortized amount would be due back to Wells, a financially disastrous situation. I cannot believe that the Ms. Brandell is subjecting not only myself, but other FCs to this type of mental duress at a time of financial crisis. Do you think this is fair and reasonable?

I think one of the sources of this discriminatory behavior is that I took 8 weeks off last year, Oct. and Nov., for a health problem that I am still being treated for- I currently take 8 pills a day! I was denied short term disability from Metropolitan Insurance with the explanation the my medical records did not support disability payments- even though I would assume the recommendation to take time off was part of my records. They effectively over ruled my Doctor- amazing. This situation affected my productivity before I left, and I had 2 months of 0 production. Barbara states that the condition of written warning is based on last year's production as well. I was on track to achieve my annual goal last year until July. I believe my treatment is partially based on verifiable illness.

Since I am now in a "sudden death" situation, I must also tell you as well that, after 30 Years of no entries on my u-4, I am very concerned with complaints and law suits arising from reckless behavior on the part of the firm- the push on "reverse convertibles", resulting in the unexplained disappearance of one of their strongest converts, Suggestion that health questions regarding insurance be less than fully truthful, and the misrepresentation of income from Insurance policies.

I am hoping that I can be on more than a "month to month" plan, which is only reasonable since it could compromise my ability to suggest the best course of action for my clients. I am available to verify and discuss any of these items at your request, and will continue to provide the very best support for clients and team members.

**Ken Shaffer**

Financial Consultant  
Wells Fargo Investments

M-W-F- 916 984-1179

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(4)  
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## 2.1 STANDARDS OF CONDUCT

The securities industry holds its members to the highest standards of business ethics and conduct. The major objective of its rules, regulations and policies is to promote just and equitable principles of trade. All Associated Persons, Registered Representatives and employees of WFI, including all individuals dually employed by WFI and any of its affiliated companies, must conduct their dealings in a manner consistent with high standards of conduct and personal integrity and avoid even the appearance of impropriety.

Additionally, WFC has established a Code of Ethics and Business Conduct that all Associated Persons, Registered Representatives and employees of WFI must abide by when conducting business. If there is a discrepancy between WFC and WFI policies and procedures the more restrictive requirements must be followed. The WFC Code of Ethics and Business Conduct is available on the Wells Fargo intranet site at: <http://oregon.homestead.wellsfargo.com/Personnel/handbook/ethics/index.html>.

### General Code of Conduct - Prohibited Business Practices

The following is a non-exclusive list of prohibited business practices. Supervisory Principals and BOMs must take reasonable steps to ensure that employees are aware of these prohibitions and do not engage in prohibited practices.

- \* • Misrepresentation of material facts, including ambiguous statements, silence, concealment or the failure to act where a duty to act exists. Misrepresentation includes false statements made regarding services or products offered by WFI or WFC, the qualifications of any person offering services, or the method of compensation for services. Misrepresentation is not excused by characterizing a statement as an "opinion." Areas of concern include but are not limited to statements about potential yields, price forecasts, product risks, value, and projected returns. Such statements should only be made if there is a firm basis for them.
- Misuse of any confidential, nonpublic information, concerning ownership of, or transactions in, securities acquired by WFI or an affiliate while acting in a fiduciary or other agency capacity for any customer, issuer, or broker/dealer (e.g., as paying agent, transfer agent, registrar, indenture trustee, clearing agent, safekeeping agent or correspondent).
- Act on rumors as the basis for soliciting transactions with or for customers. This prohibition applies to circulating, in any manner, rumors of a sensational character that might be expected to affect market conditions in any security on any exchange. This includes rumors relating to the economy or an individual industry or company. Discussion of unsubstantiated information disseminated by public media is not prohibited when the source and unsubstantiated nature of the information is disclosed.
- Pay or rebate, directly or indirectly, to any person, firm or organization, compensation for business sought or procured by WFI. No concessions or commissions can be paid to any unregistered person or entity. Certain business arrangements (e.g., soft dollar payments) may only be effected with prior written approval from WFI senior management and the Compliance Department.

(4)

MLCD & MLN Production  
YTD 2008 (through October)

Office	RM	Notional	Commission
Sacramento/Roseville		\$111,767,000	\$2,188,799
	ELLIOTT/MASON	\$8,643,000	\$222,473
	WALLEN LINDY	\$7,260,000	\$134,591
	U'REN JAMES	\$5,705,000	\$109,660
	LOMMEN DAVID	\$5,306,000	\$91,678
	JAFFEE JASON	\$5,155,000	\$90,034
	LAPKASS PAUL	\$4,749,000	\$84,008
	AWABDEH YOIL	\$4,247,000	\$81,122
	RICHMOND WILLIAM	\$4,084,000	\$89,431
	HARRIS THERESE	\$3,765,000	\$73,411
	DO STEVEN	\$3,448,000	\$60,921
	HENG/CARLSEN/ALLEN	\$3,350,000	\$60,350
	* SHAFFER KENNETH	\$3,194,000	\$58,649
	TANGEN KRISTIN	\$3,052,000	\$62,864
	MACFARLANE DOUGLAS	\$2,889,000	\$64,083
	JIMENEZ JUAN	\$2,580,000	\$51,116
	WALLEN/KUSONRUKSA	\$2,274,000	\$41,853
	PETERS KENNETH	\$2,099,000	\$38,123
	GASKINS/HAWKES	\$2,098,000	\$36,412
	VETTER DANIEL	\$2,043,000	\$35,392
	HEUANSVATH SENG	\$1,915,000	\$32,400
	ROHRER MITCHELL	\$1,765,000	\$38,231
	ROHRER MITCH	\$1,693,000	\$39,370
	HAMPTON MICHAEL	\$1,654,000	\$28,694
	EMITTE DOUG	\$1,633,000	\$31,425
	HOWARD GEOFF	\$1,218,000	\$24,515
	RICHMOND/PETERSON	\$1,021,000	\$19,540
	ELLIOTT/MASON/YEH	\$971,000	\$21,441
	WALKER KEITH	\$961,000	\$26,251
	EVANS CLAY	\$835,000	\$14,613
	VETTER/SALVADOR	\$781,000	\$12,743
	SAGE DAN	\$743,000	\$14,003
	ANDERSON/MONROE/HILLIKER	\$687,000	\$11,976
	HEUANSVATH/DEEP	\$661,000	\$11,295
	GASKINS/HAWKES/RAMIREZ	\$610,000	\$10,551
	HOWARD/PETERS	\$602,000	\$11,376
	WALLEN/BIRCH	\$595,000	\$11,355
	MACFARLANE/BROWN	\$594,000	\$17,820
	ZANOLLI GREGORY	\$581,000	\$13,881
	ANDERSON/SINGH	\$567,000	\$10,205
	JAFFEE/DEEP	\$544,000	\$9,521
	MASON/ELLIOT	\$531,000	\$14,693
	HOWARD/RAMAMURTHY	\$493,000	\$12,021
	HEUANSVATH/JOHNSON	\$479,000	\$8,058
	HENG/CARLSEN/ALLEN/BUI	\$473,000	\$8,278
	HENG/CARLSEN/ALLEN/ASCALON	\$447,000	\$8,340
	HAWKES MICHAEL	\$434,000	\$8,048

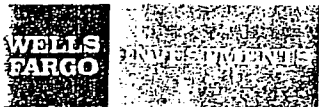
Prod 2008

(4)

HAWKES/MILLIGAN	\$430,000	\$8,125
AWABDEH/VAN DER WENDE	\$420,000	\$7,350
HAMPTON/HUYNH	\$405,000	\$6,663
HENG/CARLSEN/ALLEN/MILLIGAN	\$402,000	\$6,813
LOPEZ/RAMIREZ	\$399,000	\$6,983
MASON/ELLIOTT/WOOD	\$395,000	\$7,413
HERSHISER MIA	\$385,000	\$7,500
HAMPTON/LAU	\$372,000	\$6,661
* SHAFFER/KIRK - 50% ~ 1800	\$370,000	\$7,100
ELLIOTT/MASON/TREVINO	\$354,000	\$7,508
MANESS JAMES	\$354,000	\$7,110
ANDERSON GREGORY	\$350,000	\$6,363
OBENCHAIN CHRISTOPHER	\$350,000	\$5,875
ZAMBOANGA/JACOBSON	\$307,000	\$5,448
ELLIOTT/MASON/WILLIAMS	\$304,000	\$7,021
HAWKES/GASKINS	\$292,000	\$5,133
GASKINS/HAWKES/ROYLES	\$277,000	\$4,535
GASKINS/HAWKES/MILLIGAN	\$275,000	\$4,863
* MANESS/SHAFFER - 50%	\$274,000	\$4,795
TZIKAS EMMANUEL	\$274,000	\$6,296
GASKINS/HAWKES/NGUYEN	\$229,000	\$4,008
ZAMBOANGA JOHN	\$225,000	\$3,838
GODT CURTIS	\$212,000	\$3,498
MASON/ELLIOTT/MILLIGAN	\$212,000	\$5,110
EMITTE DOUGLAS	\$200,000	\$3,000
PETERS/PERKINS	\$200,000	\$3,500
TZIKAS/ELIAS	\$190,000	\$3,800
HENG/CARLSEN/ALLEN/BROWN	\$185,000	\$3,125
DO/ELIAS	\$172,000	\$3,011
JIMENEZ/PEREZ	\$170,000	\$3,036
LOPEZ MIGUEL	\$166,000	\$2,905
HOWARD/WILLIAMS	\$160,000	\$3,051
KUCHAR/APURADO	\$159,000	\$2,783
BENNETTE DAVID	\$150,000	\$2,625
VANDELL THOMAS	\$147,000	\$2,573
HOWARD/PETERS/WILLIAMS	\$141,000	\$3,333
HENG/CARLSEN/ALLEN/MILLER	\$124,000	\$2,170
JIMENEZ/HUYNH	\$121,000	\$2,218
BUCHANAN ROBERT	\$107,000	\$1,873
MASON RYAN	\$107,000	\$2,810
KUCHAR/WILLIAMS	\$106,000	\$2,120
BAILEY ROBERT	\$104,000	\$1,820
CYPHER CLAUDIA	\$100,000	\$3,000
EVANS/HAFF	\$100,000	\$1,750
HENG/CARLSEN/ALLEN/PERKINS	\$100,000	\$2,375
MACFARLANE/LAWRENCE	\$100,000	\$3,000
TANGEN/ANDERSON	\$100,000	\$1,750
WALLEN/LAU	\$100,000	\$1,750
WALKER/STOWE	\$95,000	\$2,350
TZIKAS/KAUR	\$90,000	\$1,575
GASKINS/HAWKES/MILLER	\$79,000	\$1,408
MASON/ELLIOTT/GALLO	\$70,000	\$2,100

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HOWARD/PETERS/YEH	\$67,000	\$1,173
HAFF JOHN	\$62,000	\$1,085
AWABDEH/RICHMOND	\$59,000	\$1,033
CHEN ALFRED	\$52,000	\$910
BENNETTE/RAMIREZ	\$50,000	\$875
GASKINS/HAWKES/PEREZ	\$50,000	\$875
MACFARLANE/O'REGAN/GONZALEZ	\$50,000	\$875
DO/PHAN	\$44,000	\$770
HENG/CARLSEN/ALLENAPURADO	\$44,000	\$795
TZIKAS/PHAN	\$40,000	\$800
EMITTE/ANDO	\$30,000	\$525
EVANS/HUFF	\$30,000	\$525
JAFFEE/RAMIREZ	\$30,000	\$450
HARRIS/MILNER	\$28,000	\$490
LOPEZ/NGUYEN	\$28,000	\$490
HENG/CARLSEN/ALLEN/DEWHURST	\$25,000	\$375
MACFARLANE/MONROE/HILLIKER	\$23,000	\$345
HAWKES/BUI	\$20,000	\$600
HEUANSAVATH/GOFF	\$20,000	\$350
MACFARLANE/DEWHURST	\$20,000	\$600
LOMMEN/JOHNSON	\$15,000	\$263
TANGEN/CYPHER	\$10,000	\$300
MACFARLANE/ZAMBOANGA	\$9,000	\$270
ANDERSON/MURPHY	\$8,000	\$140
HOWARD/TANGEN	\$8,000	\$160
ZAMBOANGA/SHIVERS	\$6,000	\$105



(4)

Private Client Services  
1512 Eureka Road, Suite 300  
Roseville, CA 95661-3069

To: **Kenneth Shaffer**, Financial Consultant

Date: **3/9/2009**

From: **Barbara Brandell**, Regional Sales Manager

Subject: **Formal Written Warning for Unsatisfactory Production**

**Ken**, this notice is to inform you that you are being placed on Formal Warning for unsatisfactory production. You have been unable to achieve the required production level of 80% of your monthly goal which is \$20,666.

**Ken**, you must meet 80% of your monthly production goal (\$20,666) each of the following months of March, April and May.

Following successful achievement of your monthly goal, your performance will be reevaluated. If you should fail to meet your goal, you will be subject to further disciplinary action, up to and/or including termination.

I am confident you will be able to improve this situation. As always, I am available to assist you in any way I can.

Should you wish to discuss this with someone else, please contact **Christine Blomley**, our Human Resources Manager, at (415) 222-1143. For any non-job related problems affecting your performance, contact Employee Assistance Consulting (EAC) at 888-327-0027

Please sign below to indicate that you have received this Informal Written Warning memo.

Refused to Sign  
**Kenneth Shaffer**, Financial Consultant

3/9/09  
Date

Presented by:

Barbara Brandell  
**Barbara Brandell**, Regional Sales Manager

3/9/09  
Date

cc: Personnel File  
Mark Webster  
Christine Blomley

**Investment and Insurance Products:**

- ▶ Are NOT insured by the FDIC or any other federal government agency
- ▶ Are NOT deposits of or guaranteed by the Bank or any Bank affiliate
- ▶ May Lose Value

Financial consultants are registered representatives of Wells Fargo Investments, LLC (member NYSE/SIPC), a non-bank affiliate  
Formal Written Warning Kenneth Shaffer 3-9-09



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# Sacramento/Roseville Store Based Brokerage 2009 ICOMP % to Goal Rank

February End of Month

Sales Professional	Location	February 28th Actual	YTD Actual	Monthly Goal	% to Monthly Goal	Annual Goal
Todd Kuchar	Gold River & Folsom West	\$48,404	\$66,590	\$19,167	253%	\$230,000
Blair Buchanan	Placerville & Cameron Park	\$25,275	\$56,681	\$21,250	119%	\$255,000
Greg Anderson	El Dorado Hills	\$21,006	\$31,514	\$19,167	110%	\$230,000
Bill Richmond	Cool, Newcastle, Camilla City	\$39,902	\$68,298	\$37,500	106%	\$450,000
Jim U'Ren	Yuba City	\$25,121	\$39,143	\$27,500	91%	\$330,000
Simon Heuansavath	N. Stockton & Tracy	\$34,754	\$52,606	\$40,000	87%	\$480,000
Joel Awabdeh	Carmichael	\$28,289	\$68,768	\$34,583	82%	\$415,000
Ken Shaffer	Empire Ranch & Micron	\$20,158	\$41,439	\$25,833	78%	\$310,000
Doug MacFarlane	Roseville-Douglas	\$49,689	\$120,350	\$65,000	76%	\$780,000
Michael Hawkes	Elk Grove	\$28,222	\$73,984	\$37,500	75%	\$450,000
Geoff Howard	Roseville-Creekside & W. Roseville	\$16,441	\$32,575	\$22,917	72%	\$275,000
Mike Hampton	N. Natomas & W. Sac	\$27,853	\$75,816	\$44,167	63%	\$530,000
Juan Jimenez	S. Natomas & 30th & Capital	\$17,371	\$44,012	\$30,833	56%	\$370,000
Dan Sage	Lincoln & Rocklin	\$13,325	\$164,041	\$23,750	56%	\$285,000
Jason Jaffee	Stockton-College Square	\$41,195	\$108,049	\$75,000	55%	\$900,000
Lindy Wallen	Greenhaven	\$28,078	\$67,253	\$51,250	55%	\$615,000
Ryan Mason	Campus Commons & Crossroads	\$20,412	\$46,086	\$39,583	52%	\$475,000
Justin Elliott	Country Club & Mad. Aub.	\$20,082	\$46,749	\$39,583	51%	\$475,000
Mia Hersher	400 Capitol Mall	\$18,348	\$45,574	\$38,750	47%	\$465,000
Alan Morgenstern	Sac Sunrise	\$14,030	\$25,649	\$30,417	46%	\$365,000
Dave Lommen	Sonora & Manteca	\$15,987	\$23,000	\$35,417	45%	\$425,000
Teri Harris	Auburn & N. Auburn	\$11,117	\$23,228	\$25,000	44%	\$300,000
Keith Walker	Grass Valley & Glenbrook	\$15,368	\$55,040	\$34,583	44%	\$415,000
Mike Tzikas	J Street, Fruitridge & N. Florin	\$12,814	\$42,408	\$29,167	44%	\$350,000
Chris Obenchain	Downtown Aub. Roseville-Harding	\$10,303	\$28,907	\$25,000	41%	\$300,000
David Bennette	Stockton Main	\$12,763	\$43,955	\$34,625	37%	\$415,500
Jim Maness	Jackson & San Andreas	\$12,429	\$36,413	\$35,417	35%	\$425,000
Dan Vetter	Folsom	\$10,046	\$44,963	\$43,750	23%	\$525,000
Jason Gaskins	Lodi	\$11,492	\$53,450	\$61,833	19%	\$742,000

(4)

**Sacramento/Roseville Store Based Brokerage 2009**  
**ICOMP \$ Stack Rank**  
**February 28th, 2009**

	Sales Professional	Location	February 28th Actual	YTD Actual	Annual Goal
1	Doug MacFarlane	Roseville-Douglas	\$49,689	\$120,350 2	\$780,000
2	Todd Kuchar	Gold River & Folsom West	\$48,404	\$66,590 9	\$230,000
3	Jason Jaffee	Stockton-College Square	\$41,195	\$108,049 3	\$900,000
4	Bill Richmond	Cool, Newcastle, Camilla City	\$39,902	\$68,298 17	\$450,000
5	Simon Heuansavath	N. Stockton & Tracy	\$34,754	\$52,606 12	\$480,000
6	Joel Awabdeh	Carmichael	\$28,289	\$68,768 6	\$415,000
7	Michael Hawkes	Elk Grove	\$28,222	\$73,984 5	\$450,000
8	Lindy Wallen	Greenhaven	\$28,078	\$67,253 8	\$615,000
9	Mike Hampton	N. Natomas & W. Sac	\$27,853	\$75,816 4	\$530,000
10	Blair Buchanan	Placerville & Cameron Park	\$25,275	\$56,681 40	\$255,000
11	Jim U'Ren	Yuba City	\$25,121	\$39,143 21	\$330,000
12	Greg Anderson	El Dorado Hills	\$21,006	\$31,514 24	\$230,000
13	Ryan Mason	Campus Commons & Crossroads	\$20,412	\$46,086 14	\$475,000
14	Ken Shaffer	Empire Ranch & Micron	\$20,159	\$41,439 20	\$310,000
15	Justin Elliott	Country Club & Mad. Aub.	\$20,082	\$46,749 13	\$475,000
16	Mia Hershisier	400 Capitol Mall	\$18,348	\$45,574 15	\$465,000
17	Juan Jimenez	S. Natomas & 30th & Capital	\$17,371	\$44,012 17	\$370,000
18	Geoff Howard	Roseville-Creekside & W. Roseville	\$16,441	\$32,575 23	\$275,000
19	Dave Lommen	Sonoma & Manteca	\$15,987	\$23,000 27	\$425,000
20	Keith Walker	Grass Valley & Glenbrook	\$15,368	\$55,040 10	\$415,000
21	Alan Morgenstern	Sac Sunrise	\$14,030	\$25,649 26	\$365,000
22	Dan Sage	Lincoln & Rocklin	\$13,325	\$164,041 1	\$285,000
23	Mike Tzikas	J Street, Fruitridge & N. Florin	\$12,814	\$42,408 19	\$350,000
24	David Bennette	Stockton Main	\$12,763	\$43,955 18	\$415,500
25	Jim Maness	Jackson & San Andreas	\$12,429	\$36,413 22	\$425,000
26	Jason Gaskins	Lodi	\$11,492	\$53,450 11	\$742,000
27	Teri Harris	Auburn & N. Auburn	\$11,117	\$23,228 28	\$300,000
28	Chris Obenchain	Downtown Aub, Roseville-Harding	\$10,303	\$28,907 25	\$300,000
29	Dan Vetter	Folsom	\$10,046	\$44,963 16	\$525,000



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## Disability Plans

Wells Fargo offers both short-term and long-term income protection for you in the event you become ill or injured and cannot work. These plans are designed to maintain a certain level of income from all sources.

### Short Term Disability

Wells Fargo provides short-term disability protection at no cost to you if you cannot work for more than seven consecutive calendar days due to your own health condition. When your claim is approved, you may be eligible for:

\$3,615 per week for up to 3 weeks, followed by

\$2,350 per week for up to 18 additional weeks.

### Long Term Disability (LTD)

If, after 22 weeks, you are still unable to work due to your own health condition and your claim is approved, you may be eligible for:

\$10,182 monthly up to age 65.

You may also receive a benefit from your account balances in the Cash Balance Plan and/or the 401(k) Plan. You may, however, leave the money in the Plans to continue to grow.

### Key Highlights

- Benefits from the Short Term and Long Term Disability Plans may be reduced by benefits you may receive from
  - o Social Security
  - o Workers' Compensation
  - o State Disability Insurance
  - o Any other wage replacement income.
- PTO days must be used during the Short Term Disability waiting period.
- For additional information on how your benefits are calculated, refer to *Teamworks*.

### Did You Know?

Today's 20-year old worker has a 3-in-10 chance of becoming disabled before reaching retirement. More than half of these disabilities are related to health conditions, not work. \*\*

\*\*Source: Social Security Administration

### Next Steps

Nearly half of all mortgage foreclosures are due to disability, while less than 5% are due to death. Long Term Disability coverage can help you protect your assets.

Visit Verification Form

Page 1 of 1

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**KAISER PERMANENTE.**

MEDICINE STATION 2 2155 Iron Point Road Folsom, CA 95630-8707 Dept: 916-817-5200 Main: 916-817-5000

## Kaiser Permanente Visit Verification Form

---

Patient Name: Kenneth C Shaffer

Date Of Visit/Advice: 9/10/08

Date of Illness:

---

Kenneth C Shaffer was seen in this office

Kenneth C Shaffer has been ill and unable to attend work from 9/22/2008 through 11/1/2008

**Off work/school/physical education comments:**

Will complete disability form for patient for voice rest given current laryngospasm,

Generated by ROSE ELEANOR ARELLANES MD on 9/10/08

Authorized by ROSE ELEANOR ARELLANES MD

---

  
<http://kaiserpermanente.org>

(6)

Shaffer, Kenneth C.

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From: Krug, Jan M.  
Sent: Wednesday, September 23, 2009 1:32 PM  
To: Shaffer, Kenneth C.; Obenchain, Christopher T.  
Subject: Micron and Douglas/Auburn-Folsom Stores

Hi Ken and Chris: I have just received word that Jim U'Ren whom we had slated to assume coverage of the Micron store will delay his return from medical LOA per his doctor's orders until Nov. 1, 2009. Because of that, we will delay the store coverage changes until he returns. I do apologize for the confusion. So, it's business as usual until the end of October! Thanks

*Jan M. Krug*

Wells Fargo Investments  
Vice President  
Regional Sales Manager  
Private Client Services  
1512 Eureka Road Suite 300  
Roseville, CA 95661  
(916) 788-4532

### My Bad Attitude

My bad attitude was caused by the lack of follow through on promises made to me, the demeaning approach that Wells Fargo takes to employee management, and constant pressure and threats of termination for missing sales goals. In spite of my problems with Ms. Brandell, or Ms. Krug, no person whom I worked with in the branches could honestly say that I was anything but friendly and supportive. I befriended many of my banker partners and met several on social occasions. Many of these employees, including all three of the licensed bankers I worked with have complained to me about pressure to maximize sales and the demeaning nature of their interaction with their managers. Several have asked me if I could identify an opportunity for their employment away from Wells Fargo.

I have heard employees gather in outrage on a regular basis, female employees crying in the break room, and men with families walked out of the branch after complaining about working conditions in the branch. That, and the tumultuous nature of the financial markets, Wells bad advice, and severe illness led to the controlled "meltdown" evidenced in my e-mails and behavior.

I have never been a part of an organization where turnover was so high, with brokers routinely disappearing without mention, sales goals which did not consider factors such as sales volume and new accounts, and the general unhappiness of employees. Wells Fargo is a modern day "Sweat Shop"

What's wrong with this picture?

Please see exhibit 7. This is a listing of Financial Advisors from 2009. The darkened names are those Financial Advisors who are no longer with the firm. 22 of the 35 Advisors, or 62% have either resigned or been terminated. Also gone is Ms. Jan Krug, after less than 24 months with the firm. Perhaps she was terminated for over terminating, perhaps because she had a caustic personality, treated Financial Advisors in a demeaning manner, or had what on currently employed Sales Assitant named Trudy Mitchell decsribed as 14 broker complaints.

I think this provides an insight into the life and pressures of Wells Fargo Employees. They treat their employees as human capital, and the turn over rate at the Brokerage division and the Bank illustate this.

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Dan Sage	N. Auburn, Glenbrook	Annuity
Jason Jaffee	N. Stockton	Annuity
Joel Awabdeh	Carmichael	Annuity
David Bennette	Stockton Main	Annuity
Todd Kuchar	Gold River	Annuity
Simon Heuansavath	30th & Cap, N. Stockton, Tracy	Annuity
Alan Morgenstern	Auburn, Roseville	Ivy Funds
Lindy Wallen	Greenhaven	UITs
Dan Vetter	Folsom	Wrap
Bill Richmond	Cool/Newcastle	All
Mia Herscher	400 Capitol Mall	All
Teri Harris	Roseville-Woodcreek, Auburn	All
Greg Anderson	El Dorado Hills	All
Jason Elliott	Country Club, Mac Auburn	
Ryan Mason	Campus Commons, Crossroads	
Dan MacFarlane	Roseville-Douglas	
Mike Hamilton	N. Natomas, W. Sac.	
Dave Conner	Contra, Manteca	
Chris G. Smith	N. Natomas	
Michael Hawkes	El Dorado	
Keith Walker	Grass Valley, Placer Valley	
Dan Smith	Red Bluff	
Bill Johnson	Placer, El Dorado, Placer	
Mike Smith	Grass Valley	
John Johnson	N. Natomas, El Dorado	
Jim Mahoney	El Dorado	
Karl Smith	El Dorado	
Greg Howard	El Dorado	
Jim Smith	El Dorado	
Robert Smith	El Dorado	
Chris Smith	El Dorado	
John Smith	El Dorado	
Chris Smith	El Dorado	
Bill Smith	El Dorado	
Jason Gaskin	El Dorado	

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Sacramento Region  
Week Ending Stack Rank  
May 22nd 2009

MTD Rank	Sales Professional	YTD Rank	Sales Professional
1	Jim Monroe	1	Jim Monroe
2	Dan Sage	2	Greg Zanolli
3	Kelly Huff	3	Kelly Huff
4	Mitch Rohrer	4	Mitch Rohrer
5	Jason Jaffee	5	Doug MacFarlane
6	Jason Gaskins	6	Dan Sage
7	Matt Hilliker	7	Matt Hilliker
8	Greg Zanolli	8	Jason Jaffee
9	Mia Hershisier	9	Kris Tangen
10	Juan Jimenez	10	Joel Awabdeh
11	Jim Maness	11	Ken Peters
12	Keith Walker	12	Jason Gaskins
13	Doug MacFarlane	13	Michael Hawkes
14	Tom Vandell	14	Lindy Wallen
15	Ken Shaffer	15	Mike Hampton
16	Ken Peters	16	Tom Vandell
17	David Bennette	17	Mia Hershisier
18	Greg Anderson	18	David Bennette
19	John Haff	19	Todd Kuchar
20	Kris Tangen	20	John Haff
21	Justin Elliott	21	Juan Jimenez
22	Ryan Mason	22	Keith Walker
23	Alan Morgenstern	23	Bill Richmond
24	Mike Hampton	24	Russ Godt
25	Chris Obenchain	25	Simon Heuansavath
26	Teri Harris	26	Jim Maness
27	Todd Kuchar	27	Justin Elliott
28	Dave Lommen	28	Ken Shaffer
29	Lindy Wallen	29	Ryan Mason
30	Simon Heuansavath	30	Dan Vetter
31	Joel Awabdeh	31	Greg Anderson
32	Dan Vetter	32	Alan Morgenstern
33	Bill Richmond	33	Blair Buchanan
34	Russell Chaney	34	Mike Tzikas
35	Blair Buchanan	35	Dave Lommen
36	Mike Tzikas	36	Jim U'Ren
37	Jim U'Ren	37	Curtis Godt
38	Russ Godt	38	Chris Obenchain
39	Curtis Godt	39	Teri Harris
40	Michael Hawkes	40	Russell Chaney
41	Denis Valle	41	Bill Bartok
42	Bill Bartok	42	Denis Valle

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Sacramento Region Brokerage  
Weekly Stack Rank  
as of September 25, 2009

Greg Zanolli	\$103,061	Jim Monroe	1
Jim Monroe	\$84,263	Greg Zanolli	2
Kelly Huff	\$69,154	Kelly Huff	3
Mitch Rohrer	\$65,049	Mitch Rohrer	4
Matt Hilliker	\$43,372	Doug MacFarlane	5
Tom Vandell	\$37,795	Matt Hilliker	6
Juan Jimenez	\$31,428	Jason Jaffee	7
Jason Jaffee	\$30,796	Dan Sage	8
Doug MacFarlane	\$29,902	Joel Awabdeh	9
Todd Kuchar	\$27,705	Kris Tangen	10
John Haff	\$27,308	Ken Peters	11
David Bennette	\$25,410	Jason Gaskins	12
Jim Maness	\$24,811	Lindy Wallen	13
Ken Peters	\$24,454	Michael Hawkes	14
Jason Gaskins	\$23,857	John Haff	15
* Ken Shaffer	\$22,835	Tom Vandell	16
Kris Tangen	\$22,670	Michael Hampton	17
Russell Godt	\$21,225	Mia Hershiser	18
Keith Walker	\$20,885	Justin Elliott	19
Mia Hershiser	\$20,850	Ryan Mason	20
Joel Awabdeh	\$20,407	David Bennette	21
Dan Sage	\$20,139	Juan Jimenez	22
Alan Morgenstern	\$18,671	Todd Kuchar	23
Ryan Mason	\$17,956	Keith Walker	24
Justin Elliott	\$17,941	Simon Heuansavath	25
Blair Buchanan	\$16,833	Russell Godt	26
Michael Hawkes	\$16,279	Bill Richmond	27
Michael Hampton	\$15,663	Jim Maness	28
Mike Tzikas	\$12,625	Alan Morgenstern	29
Teri Harris	\$11,743	Dan Vetter	30
Russell Chaney	\$11,670	Ken Shaffer	31 *
Lindy Wallen	\$11,133	Mike Tzikas	32
Bill Richmond	\$8,575	Blair Buchanan	33
Chris Obenchain	\$6,231	Greg Anderson	34
Greg Anderson	\$4,821	Teri Harris	35
Dan Vetter	\$4,582	Chris Obenchain	36
Simon Heuansavath	\$821	Russell Chaney	37
Denis Valle	\$726	Denis Valle	38



#### Speaking of over charging

Financial Advisors at Wells Fargo shared frustrations over many issues, one was how the Municiple bond department could offer a bond at a price which they claimed was only "marked up" by the amount of the sales commision, say 10 to 15 to 20 dollars per bond, and then Wells own pricing model would show the bond was worth far less than the supposed unmarked price on the very next statement. I beleive that the Municiple dept. is in violation of regulations regarding the pricing of Municiple bonds, adding an undisclosed mark up to benefit the department, in violation of regulation regarding FIPS, the fixed income pricing system.

#### Mary Mortensen's comments regarding my termination

Ms. Mortensen claims that I said "Good, than I can file an unlawful termination claim, you know that you will never see a red dime from me" This is a complete fabrication, I never made this statement, I have never used or heard of the phrase " red dime" and do not know what this means. Please also see Exhibit 12, an e-mail from a former Wells Fargo employee, Jim U'ren (witness list) regarding comments that Ms. Mortensen made to him regarding Ms. Krug.

I also believe that a potential employer, U.S. Bank, received information from Mary Mortensen which was defamatory, as a Mr. Marv Scofield came into our interview and made statements regarding my emotional state, continued our interview for over an hour, and would not return my phone calls or e-mails requesting an update. I learned later when relating my befuddlement regarding his comments to a friend and fellow broker that Mary Mortensen and Marv Scofield are friends.

#### Other Misrepresentations

It is standard business practice in the brokerage industry that brokers are provided at least some administrative assistance, one of the rational for the firm keeping 60-70% of the commision revenue. I learned after joining Wells Fargo, and was never informed earlier, that to utilize a sale assistant part time would cost 500 dollars per month. I did not participate in this offer, handeling all paperwork and administrative activities myself.

#### FINRA guidelines on subpoenas

FINRA guidelines state that " documentary evidence should be exchanged voluntarily by the parties without the use of subpoenas" I was never contacted by any party to discuss accesing the information regarding my employment applications, and certainly I will not be considered as a candidate for employment at any of these firms as aresult of this action. This is another violation of FINRA guidelines, and of S-1050, blacklisting.

#### Delivery of Witness List, Discovery Documents

I received the package on Dec 23rd, one day past the deadline. Please see Fed. Ex delivery confirmation. Received Mr. Kanes authorization to practice law in California on Dec. 29th.